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PATENT APPLICATION

ATTORNEY DOCKET NO. 10012397-1

IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): David H. HANES

Application No.: 09/910,970

Filing Date: July 20, 2001

Confirmation No.: 2563

Examiner: Vent, Jamie J.

Group Art Unit: 2621

Title: SYSTEM AND METHOD FOR DETECTING THE BORDER OF RECORDED VIDEO DATA

Mail Stop Appeal Brief - Patents
Commissioner For Patents
PO Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL OF REPLY BRIEF

Transmitted herewith is the Reply Brief with respect to the Examiner's Answer mailed on September 14, 2006 .

This Reply Brief is being filed pursuant to 37 CFR 1.193(b) within two months of the date of the Examiner's Answer.

(Note: Extensions of time are not allowed under 37 CFR 1.136(a))

(Note: Failure to file a Reply Brief will result in dismissal of the Appeal as to the claims made subject to an expressly stated new ground rejection.)

No fee is required for filing of this Reply Brief.

If any fees are required please charge Deposit Account 08-2025.

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Respectfully submitted,

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPEAL FROM THE EXAMINER TO THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of:	David H. HANES	Confirmation No: 2563
Serial No.:	09/910,970	
Filing Date:	July 20, 2001	
Group Art Unit:	2621	
Examiner:	Vent, Jamie J.	
Title:	SYSTEM AND METHOD FOR DETECTING THE BORDER OF RECORDED VIDEO DATA	
Docket No.:	10012397-1	

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Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

REPLY BRIEF

Appellant respectfully submits this Reply Brief in response to the Examiner's Answer mailed September 14, 2006, pursuant to 37 C.F.R. § 1.193(b).

STATUS OF CLAIMS

Claims 1-20 and 22-40 stand rejected pursuant to a Final Office Action mailed January 2, 2004. Claims 21 and 36-40 were canceled without prejudice or disclaimer. Claims 1-20 and 22-35 are presented for appeal.

STATEMENT OF ISSUES

1. Are claims 1-7, 9-13, 15-19, 22-29 and 31-35 unpatentable under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,812,732 issued to Dettmer et al. ("*Dettmer*")?

2. Are claims 8, 14, 20 and 30 unpatentable under 35 U.S.C § 103(a) in view of *Dettmer* in combination with U.S. Patent No. 5,343,251 issued to Nafeh ("*Nafeh*")?

ARGUMENT

A. Issue 1: Claims 1-7, 9-13, 15-19 and 22 (Group 1) are patentable over *Dettmer*.

Claims 1-7, 9-13, 15-19 and 22 (Group 1) stand rejected under 35 U.S.C. § 102(b) as being anticipated by *Dettmer*. Of these claims, claims 1, 9 and 15 are independent. Appellant respectfully submits that each independent claim is patentable over *Dettmer*, and thus remaining claims 2-7, 10-13, 16-19 and 22 which depend from the independent claims, are also patentable.

In the Examiner's Answer, the Appellee states that *Dettmer* discloses a system in which video frames are analyzed to determine undesired programs (commercials) from desired programs (Examiner's Answer, page 3). However, the analysis in *Dettmer* referred to by the Appellee is still the result of analyzing a signal in *Dettmer* where each frame of the *Dettmer* signal has content (i.e., either program data content or commercial data content). Thus, in *Dettmer*, signals containing data content are analyzed, and then a determination is made whether to record the data content. Therefore, in *Dettmer*, a decision not to record data does not occur (become "unrecorded") until after the data content has been analyzed, in contrast to "analyzing . . . video frames . . . comprising . . . unrecorded data content" as recited by claim 1 of the present application. Thus, as presently claimed, the analysis of the frames is performed on frames having unrecorded data content. Accordingly, the claims of the present Application differ from *Dettmer* in at least one important respect: analyzing a frame having unrecorded content thereon (according to

Appellant's claims) versus analyzing a frame having recorded content thereon and then determining not to record such frame (according to *Dettmer*). Therefore, for at least the reasons discussed above and in Appellant's Appeal Brief, independent claims 1, 9 and 15 of the present application are patentable over *Dettmer* because *Dettmer* does not disclose, teach or suggest the elements of independent claims 1, 9 and 15. Thus, Appellant respectfully submits that the rejection of claims 1, 9 and 15 based on *Dettmer* was improper, and that the claims of Group 1 (claim 1 and claims 2-7 that depend from claim 1; claim 9 and claims 10-13 that depend from claims 9; and claim 15 and claims 16-19 and 22 that depend from claim 15) are in condition for allowance.

B. Issue 1: Claims 23-28 (Group 2) are patentable over *Dettmer*.

Claims 23-28 (Group 2) stand rejected under 35 U.S.C. § 102(b) as being anticipated by *Dettmer*. Of these claims, claim 23 is independent Appellant respectfully submits that independent claim 23 is patentable over *Dettmer*, and thus remaining claims 24-28 which depend from independent claim 23 are also patentable.

In the Examiner's Answer, the Appellee asserts column 12, lines 38-44, and column 3, lines 7-14, of *Dettmer* discloses the elements of independent claim 23 (Examiner's Answer, page 4). Appellant respectfully disagrees. *Dettmer* states that "two successive images" may be measured and that "[i]f the amount of pixels in which two images differ is low, then there is no significant change in the image content" (*Dettmer*, col. 12, lines 38-44). However, such images referred to in *Dettmer* still apparently represent frames <u>having content thereon</u> (i.e., in the form of either program material or commercial material), in contrast to a frame having unrecorded data content thereon (e.g., in the form of snow or a random black and white pattern). Thus, *Dettmer* distinguishes only between different types of data content by determining color variances between image frames <u>each having content thereon</u>. Accordingly, *Dettmer* fails to disclose, teach or suggest identifying a border between "<u>unrecorded data content</u> . . . and <u>recorded data content</u> . . . if pixel values" of at least one frame of the video data correspond substantially "to a particular color" as recited by claim 23 of the present application (emphasis added).

Accordingly, for at least the reasons discussed above and in Appellant's Appeal Brief, independent claim 23 of the present application is patentable over *Dettmer* because *Dettmer* does not disclose, teach or suggest the elements of

independent claim 23. Thus, Appellant respectfully submits that the rejection of claim 23 based on *Dettmer* was improper, and that the claims of Group 2 (claim 23 and claims 24-28 that depend from claim 23) are in condition for allowance.

C. Issue 1: Claims 29 and 31-35 (Group 3) are patentable over *Dettmer*; and Issue 2: Claims 8, 14, 20 and 30 (Group 4) are patentable over *Dettmer* in view of *Nafeh*.

Claims 29 and 31-35 (Group 3) stand rejected under 35 U.S.C. § 102(b) as being anticipated by *Dettmer*. Of these claims, claim 29 is independent. Claims 8, 14, 20 and 30 (Group 4) stand rejected under 35 U.S.C § 103(a) in view of *Dettmer* in combination with *Nafeh*. Appellant respectfully submits that independent claim 29 is patentable over *Dettmer*, and thus remaining claims 31-35 which depend from independent claim 29 and claims 8, 14, 20 and 30 are also patentable. Appellant also respectfully submits that claims 8, 14, 20 and 30 are patentable over *Dettmer* in combination with *Nafeh*.

In the Examiner's Answer, the Appellee again asserts that *Dettmer* discloses use of a vector (Examiner's Answer, page 5) in the disclosure of *Dettmer* referring to the use of a histogram for brightness distribution (*Dettmer*, column 12, lines 19-31). However, Appellant remains unable to identify any disclosure in *Dettmer* that discloses, teaches or in any way suggests the use of a vector as indicated by the Appellee, nor has the Appellee explicitly identified any such passage in *Dettmer*. Accordingly, for at least this reason, independent claim 29 of the present application is patentable over *Dettmer* because *Dettmer* does not disclose, teach or suggest the elements of independent claim 29 and, therefore, the claims of Group 3 (claim 29 and claims 31-35 that depend from claim 29) are in condition for allowance.

Further, because *Dettmer* does not disclose, teach or suggest the use of a vector, which the Appellee is apparently relying on to combine reference teachings, the proposed combination of *Dettmer* and *Nafeh* is improper. Accordingly, for at least this reason also, the rejection of claims 8, 14, 20 and 30 based on the combination of *Dettmer* and *Nafeh* was improper, and the claims of Group 4 (claims 8, 14, 20 and 30) are in condition for allowance.

CONCLUSION

Appellant has demonstrated that the present invention as claimed is clearly distinguishable over the art cited of record. Therefore, Appellants respectfully request the Board of Patent Appeals and Interferences to reverse the final rejection of the Appellee and instruct the Appellee to issue a notice of allowance of all claims.

No fee is believed due with this Reply Brief. If, however, Appellant has overlooked the need for any fee, the Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 08-2025 of Hewlett-Packard Company.

Respectfully submitted,

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Date: November 13, 2006

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